



Excise Taxes Newsletter

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GENERAL INTEREST

1. Annual taxpayers' bill of rights hearings to begin

Do you have suggestions for improving our services? Do you want us to look more closely at a tax or fee issue? If you do, come share your ideas and concerns with our Board Members at the annual Taxpayers' Bill of Rights hearings. You can present your proposal orally or in writing.

The annual business and property taxes hearings for 2008 will be held in Culver City on February 26 and in Sacramento on March 18, both at approximately 1:30 p.m. Although you are not required to make advance arrangements to speak, it would help us to prepare if you contacted the Taxpayers' Rights Advocate Office at 888-324-2798 beforehand to let us know your topic. If your proposal is complex or extensive, we encourage you to submit it in advance and then summarize it in your oral presentation.

For more details, please call the Advocate's Office or visit us at www.boe.ca.gov/tra/tra.htm.

2. New method of payment for Excise Tax programs

We now accept credit cards for your Excise Tax returns, accounts receivable, and audit payments. Using credit cards issued by American Express, Discover Network, MasterCard, or Visa will allow you to make your payments on all your accounts faster and easier.

However, if you are a mandatory electronic funds transfer (EFT) account, you cannot make your tax or fee payment by credit card. The law specifically defines that electronic funds transfer payments may only be made by ACH credit, ACH debit, or fedwire. Additionally, cigarette distributors cannot make payment by credit card for their cigarette tax stamp purchases.

If you are currently a voluntary electronic funds transfer (EFT) account, you can make your tax or fee payment by credit card.

Please be aware there is a convenience fee to use your credit card, it is a fee charged by the credit card processing vendor, Official Payments Corporation. The fee is 2.5% of the transaction amount. **Please note:** Transactions under \$40 are subject to a \$1.00 minimum. Below is an example of how the fee is calculated:

Transaction	Convenience Fee
\$10 X .025 (2.5%)	= \$1.00 minimum
\$100 X .025 (2.5%)	= \$2.50
\$1,000 X .025 (2.5%)	= \$25.00
\$10,000 X .025 (2.5%)	= \$250.00

Also remember, even though you paid your return on time by credit card, it does not relieve you of the obligation to mail your return form when due. Your return form must be post-marked on or before the due date to be considered on time.

NOTE:

- There is a 10 percent penalty for a late return form even if the tax payment has been made on time.

- Before mailing the return form, mark the appropriate box to indicate that you have made your payment by credit card.
- There is a penalty of \$50 or 10 percent of the amount of tax due, whichever is greater, for a late return for an Alcoholic Beverage Tax account.

You may also make a payment using a touch tone phone. Please visit our website, www.boe.ca.gov/electsrv/ccppcont.htm for more information or to make payment by either touch tone phone or over the Internet. You may also contact a representative at 800-400-7115 if you have questions.

CIGARETTE AND TOBACCO PRODUCTS TAXES

3. Distributors: Be sure to synchronize your stamping machines and scan all stamps

It's critical for cigarette distributors to synchronize their stamping machines and scan all cigarette tax stamps when applying the stamps to cigarette packs. Unscanned stamps are not valid.

To properly scan stamps, you must keep your stamp machine synchronized with the state's database. This is true whether you use a high-volume stamp machine or the low-volume model.

If you're using a high-volume machine, be sure to leave the power on even during nonstamping hours so that the machine can properly synchronize. This will allow the stamp vendor to extract stamping information from the machine and download software updates as necessary.

If you're using a low-volume machine, you must scan all stamps individually or process them in batch mode. Here are a few reminders about using the low-volume equipment:

- You must synchronize the scanner by telephone or Internet connection each day after stamping is complete.
- If you have not synchronized for several days, you should connect before starting to stamp to ensure the most current stamp roll information is uploaded to your machine.
- Batch processing requires you to scan at least the first and last stamp of each roll. If you are using a partial roll, you must scan the starting and final stamp on the roll.
- When batch processing, you cannot scan the stamps from two different rolls as your first and last stamps. If this occurs, your stamp count is likely to be wrong.

If you have a high-volume machine and choose to hand apply stamps from the 30,000-stamp roll, you must scan each individual stamp. There is no way to batch process large stamp rolls.

If your low volume machine is not working properly, please contact Form 10 Group immediately for technical assistance: 408-988-0110.

4. Retailers: Remember to retain your invoices

Please remember that you must retain these purchase invoices for a period of four years. Twelve months of invoices must be kept at the retail location for at least one year after purchase and shall be available upon request during the normal business hours for inspection and copying by Board staff or by a law enforcement agency. Any retailer found in violation of these requirements or any person who fails, refuses, or neglects to retain or make available invoices for inspection will be cited for violation of the Cigarette and Tobacco Licensing Act.

The invoices that you receive from licensed distributors or wholesalers under the Cigarette and Tobacco Licensing Act of 2003 must include the following information:

- The name of the wholesaler or distributor from whom you purchased the cigarettes or tobacco products.
- The address, telephone number, and license number of the wholesaler or distributor.
- The amount of California excise taxes the distributor or wholesaler owes on the sale of the cigarettes or tobacco products. However, a distributor that is *also* a retailer or manufacturer may include a statement that reads "All California cigarette and tobacco products taxes are included in the total amount of this invoice."
- An itemized list of the cigarettes or tobacco products sold.
- Your name, address, and the retailer's license number.
- The date of the sale.

Additionally, cigarette and tobacco products cannot be sold between retailers.

5. Failing to renew your cigarette and tobacco products license requires a reinstatement fee

Annual license renewal is free of charge. However, effective January 1, 2008, a retailer who has allowed its Cigarette and Tobacco Products Retailer License to expire and failed to renew on time will be required to pay a reinstatement fee of \$100.00 in order to receive a renewed license. For retailers who hold more than one license, the

reinstatement fee applies to each license which has expired and was not renewed on time.

Remember, a Cigarette and Tobacco Products Retailer License is non-transferable when selling a business, changing locations, or changing business entity type (partnership, corporation, sole proprietor). A license is specific to the applicant and location entered on the application at the time of applying for the Cigarette and Tobacco Product Retailer License.

For more information please call the Excise Taxes Division at 800-400-7115.

6. New filing requirements for manufacturers and importers of tobacco products

Assembly Bill 1749 (Stats. 2006, ch. 501) went into effect January 1, 2007, but the filing requirements for manufacturers and importers of tobacco products was operative May 1, 2007.

One of the provisions of AB 1749 allows the Board to require manufacturers and importers of tobacco products to file monthly electronic reports. In order to comply with this requirement, improve the efficiency of information reporting, and reduce paper as well as your filing workload, manufacturers and importers now have the option to submit the BOE-501-MIT, *Schedule—Manufacturer/Importer Report of Tobacco Products Delivered or Shipped Into California* in an electronic format.

Although setting up your electronic layout may take some effort initially, electronic reporting will be more convenient in the long run. We are available to work with you and/or your information technology staff to provide assistance and answer any questions you may have regarding the file format.

We will continue sending you paper copies of the BOE-501-MIT schedule and BOE-501-TIM, *Tobacco Products Manufacturer/Importer Return of Taxable Distributions of Samples in California*. However, at this time, only the BOE-501-MIT schedule may be electronically filed.

We are confident you will find electronic filing of the BOE-501-MIT easy, fast, inexpensive, and user friendly.

For more information please call the Excise Taxes Division at 800-400-7115.

7. Retail tax stamp scanners are available

Licensed cigarette retailers have the option of purchasing a scanner which can check the validity of tax stamps on cigarettes they purchase for resale. This handheld device will allow a retailer to check 100 percent of incoming

stamped product or simply audit a few stamps per carton. The screen on the unit will display the word "Valid" when scanning legitimate California cigarette tax stamps arriving from wholesale or distribution channels. The scanners sell for \$799 plus tax. If you are interested in purchasing one, please call Form 10 Group at 408-988-0110.

ALCOHOLIC BEVERAGE TAXES

8. Board votes to adopt regulations to tax flavored malt beverages as distilled spirits

At its meeting, November 15, 2007, the Board voted to adopt regulations that would change the taxation of flavored malt beverages, which are currently taxed as beer at the rate of \$0.20 per gallon, to the distilled spirits rate of \$3.30 per gallon.

The new regulations create a "rebuttable presumption." That simply means that the Board will presume that all alcoholic beverages, except wine, are distilled spirits unless the manufacturer shows otherwise.

The regulations, upon approval of the Office of Administrative Law, will be effective July 1, 2008, and will:

- Define distilled spirits to include an alcoholic beverage, except wine, which contains 0.5 percent or more alcohol by volume from flavors or ingredients containing alcohol obtained from the distillation of fermented agricultural products.
- Presume, unless the contrary is established, that alcoholic beverages, except wine, contain 0.5 percent or more alcohol by volume from flavors or ingredients containing alcohol obtained from the distillation of fermented agricultural products.
- Allow the manufacturer to rebut the presumption regarding a particular alcoholic beverage by filing a statement, under penalty of perjury, that specifies the sources and amount of the alcohol content of the beverage.
- Require the Board to establish and maintain on its Internet site a listing of alcoholic beverages that, in the Board's discretion, have been shown not to be distilled spirits.
- Provide taxpayers, who rely on the information contained on the Internet list for reporting purposes, protection from potential tax liabilities.

The complete texts of proposed Regulation 2558, *Distilled Spirits*; Regulation 2559, *Presumption – Distilled Spirits*; Regulation 2559.1, *Rebuttable Presumption – Distilled Spirits*;

Regulation 2559.3, *Internet List*; and Regulation 2559.5, *Correct Classification*, along with the issue paper, can be viewed on our website at www.boe.ca.gov/sptaxprog/pdf/fmb.pdf.

For the latest information on the regulations, please refer to our dedicated Flavored Malt Beverage web page at www.boe.ca.gov/sptaxprog/alcoholicbeverage.htm. There you can also sign-up to receive electronic notices. You can also contact the Excise Taxes Division at 800-400-7115 to speak directly with a tax representative.

EMERGENCY TELEPHONE USERS SURCHARGE

9. Surcharge rate information

The Department of General Services (DGS) determines the annual rate of the Emergency Telephone Users Surcharge. DGS has determined that the current surcharge rate of 0.50 percent will remain in effect for the next surcharge rate period. The Board fixed this rate for the next rate period at its September 12, 2007, meeting.

In addition, you should be aware of two changes to the Emergency Telephone Users Surcharge Law. First, Assembly Bill (AB) 1748 (Stats. 2007, ch. 342) amended the law to make the period that the surcharge rate is in effect the same as the calendar year. To facilitate this change, this year's rate will remain in effect for the period of November 1, 2007, through December 31, 2008. Starting with January 2009, the rate will be set for calendar year 2009 and each subsequent calendar-year period.

AB 1748 also changed the date by which the DGS is required to determine the surcharge rate each year. The requirement was previously by no later than September 1; now it is by no later than October 1. As a result, the Board is now required to publish in its minutes, and notify service suppliers of, the new rate by November 15 each year. The previous requirement was by September 15.

If you would like more information about the Emergency Telephone Users Surcharge Law, feel free to visit our website at www.boe.ca.gov. Be sure to type the words "Emergency Telephone Users Surcharge Law" in the search field. For the specific language of these changes, please search in section 41031 of the law.

If you have any questions regarding this matter, please contact the Excise Taxes Division at 800-400-7115.

FOR MORE INFORMATION

Board Member contact and website. Visit our website: www.boe.ca.gov for Board Member information, legislative summaries, regulations, forms and publications, and more.

Information Center: 800-400-7115

TDD/TTY: 800-735-2929

Representatives are available to help you from 8:00 a.m. to 5:00 p.m., Pacific time, M-F, except state holidays.

Excise Taxes Division

Write to us at:

Excise Taxes Division, MIC:56
State Board of Equalization
P.O. Box 942879
Sacramento, CA 94279-0056

Or call us at 916-327-4208.

Tax Evasion Hotline. Call toll-free to report suspected tax evasion, 888-334-3300.

Taxpayers' Rights Advocate. Call toll-free for help with problems you have been unable to resolve through normal channels, 888-324-2798.

Copies of Legislative Bills. Write to the Legislative Bill Room, State Capitol, Room B-32, Sacramento, CA 95814. Or visit the following website: www.leginfo.ca.gov/bilinfo.html. Be sure to read the "chaptered" (final) version of the bill.

The Legislative Bill Room does not provide copies of our forms and publications.